



FEDERAL VOTING ASSISTANCE PROGRAM

DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1155

December 18, 2006

The Honorable Terri Lynn Land
Secretary of State
Treasury Building, 1st Floor
430 W. Allegan Street
Lansing, MI 48918-9900

Dear Secretary Land,

I would like to thank you for the work you have done over the past several years to promote and support the legislative initiatives the Federal Voting Assistance Program (FVAP) has recommended. The 2006 elections pointed out the importance of the states enacting these legislative initiatives. In particular, the provision of 45 or more days for ballot transit; electronic transmission of Federal Post Card Applications, blank ballots, and voted ballots; and, authorization for the state chief election official to implement emergency measures. States with these provisions were able to support a greater number of situations faced by our brave men and women serving in combat areas such as Iraq and Afghanistan, and other U.S. citizens worldwide. I would ask you also to consider alternative methods that these citizens could use to request their absentee ballots such as phone, email or by proxy, and utilizing digital signatures with electronically transmitted materials.

After reviewing Michigan's existing election code and procedures, I have identified six initiatives that the Michigan legislature might consider during the upcoming legislative session. These initiatives are discussed in detail with suggested wording in the enclosed legislative initiatives document. If these initiatives are enacted and signed into law, they would significantly help to facilitate the absentee voting process for Michigan's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 43,876 Uniformed Services members, 32,907 family members and approximately 120,675 overseas citizens that claim Michigan as their voting residence.

As you review the enclosed initiatives for possible inclusion in Michigan's 2007 legislative agenda, please do not hesitate to contact us for assistance. We can provide legislative wording that other states have enacted to implement similar measures and provide written or in-person testimony, if desired. We have come a long way in simplifying the absentee voting process since the enactment of the *UOCAVA*—let's continue our joint efforts to achieve the simplest possible absentee voting process while maintaining its integrity.

Sincerely,

A handwritten signature in black ink, reading "J. Scott Wiedmann", is positioned above the printed name and title.

J. Scott Wiedmann
Deputy Director

Enclosure:

2007 Legislative Initiatives and Suggested Wording

Michigan 2007 Legislative Initiatives and Sample Language

Electronic Transmission of Election Materials

Since the 1990 general election, faxing has proven to be a valuable alternative method for facilitating the enfranchisement of military persons and overseas citizens serving their country who may have otherwise been unable to vote. This initiative has helped to ensure that these citizens were not disenfranchised by allowing them to cast a ballot when they would not otherwise have been able to vote due to time and location constraints.

Throughout an election year cycle, various circumstances exist that require the need for this alternative procedure in order for citizens to vote. The basic concept of electronic transmission of election materials is to secure high-speed delivery of election materials to and from the voter and local election officials. Your support in developing the **acceptance of electronic transmission for all aspects of the process**, with proper controls, would cut the ballot transit time at least in half. This would reduce a major obstacle to voting absentee and allow local election officials more administrative flexibility in preparing election materials.

We request that you seriously consider in this year's legislative session, the expansion of the use of modern technology in the absentee voting process. We realize that Michigan enacted legislation to provide for the electronic transmission of the FPCA for registration and absentee ballot request. However, we encourage expanded use of this alternative to include electronically sending the blank ballot to the voter, and accepting the voted ballot from the voter where circumstances would otherwise disenfranchise a citizen. **Twenty-three** states have expanded use of electronic transmission to allow sending the blank ballot, and accepting the voted ballot.

Sample Language

An election official may send blank ballots and accept voted ballots from eligible electors who are members of the United States Uniformed Services, merchant marine, or family members, or qualified electors living outside the United States via electronic transmission.

Emergency Authority for Chief Election Official

During a period of a declared emergency or other situation where there is a short time frame for ballot transmission, it is recommended that Michigan's Chief Election Official have the authority in law to designate alternate methods for handling absentee ballots to ensure voters have the opportunity to exercise their right to vote. The Chief Election Official and the Federal Voting Assistance Program could mutually establish expeditious methods for handling absentee ballots including electronic transmission. **Seventeen** states have passed legislation giving the Chief Election Official authority to designate alternate methods of handling absentee ballots in emergency situation.

Sample Language

If a national or local emergency or other situation arises which makes substantial compliance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, such as a natural disaster or an armed conflict involving United States Armed Forces, or mobilization of those forces, including State National Guard and Reserve components, the Chief Election Official may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in the state.

The Chief Election Official shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

Elimination of Witness/Notary Requirement

Current Michigan election law requires that the FPCA used to register and request absentee ballots or to request absentee ballots only, must be sworn to before an official authorized to administer oaths if the requesters are Michigan residents temporarily residing outside the U.S. and unaffiliated with the U.S. Federal Government, or overseas citizens. We recommend that **Michigan eliminate the requirement for voting materials to be notarized for overseas citizens**. While such requirements may be appropriate for local or in-state absentee balloting, they create an additional burden to the overseas voters in order to register and request an absentee ballot. Additionally, many overseas citizens who are not able to visit a U.S. embassy or consular office are forced to pay high fees for notarization or witnessing services in order to participate in the balloting process. Since 1982 Michigan had eliminated the notary requirement for Uniformed Service members and their dependents. We strongly recommend action this legislative year to **remove the notary requirement for overseas citizens as well. Michigan is one of only three states and territories that have a notary requirement for the Federal Post Card Application for citizens outside the U.S.**

Sample Language *(suggested if notarization is required for local or in-state absentee ballot)*

If a voter is residing outside the United States or is a member of the United States Uniformed Services or a family member of a member of the Uniformed Services, and he or she is a qualified elector and is required to execute an affidavit or form for an absentee ballot, he or she may subscribe to a self-administered oath, under penalty of perjury.

Late Registration Procedures

We recommend that Michigan **allow persons recently separated from the Uniformed Services or overseas employment, and their family members, to be able to register late or be exempt from registration**. Many members of the Uniformed Services and overseas citizens go through a transition period when they first leave the Uniformed Services or overseas employment and may reside in your state just prior to an election. This time frame

does not meet your state's normal residency requirements. Often, the date of discharge or termination of overseas employment and a state's registration requirement combine to disenfranchise a discharged military member or overseas citizen returning home after employment abroad. Special procedures to allow these persons to register and vote would solve this problem. **Twenty-nine** states currently allow such procedures.

Sample Language

An individual, or accompanying family member who has been discharged or separated from the Uniformed Services or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular state deadline for registration, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge, separation, or termination of employment.

State Special Write-In Absentee Ballot

We also recommend that Michigan provide a state write-in absentee ballot for **all elections**. The purpose of the state write-in absentee ballot is to **provide a method for voting by military and other persons overseas who, due to military contingencies or special circumstances such as those faced by submariners, Peace Corps volunteers, missionaries or others in remote areas, will be out of communication for extended periods of time and unable to receive the regular ballot from your state in the normal time frame**. A voter could request a state write-in absentee ballot 90 days in advance and write in the names of the candidates or party preferences. The voter knows in advance that he or she will not be able to receive, vote, and return the regular ballot from the state in time to be counted. **Twenty-seven** states now provide state write-in absentee ballots.

This state write-in absentee ballot should not be confused with the Federal Write-In Absentee Ballot (FWAB) that is prepositioned at Embassies and Consulates, military installations, overseas organizations and corporations. In comparison, the FWAB is generally only available to military stationed overseas and overseas citizens who have already applied for a regular ballot from the state. They do not know in advance that they need the FWAB. However, if the regular ballot from the state does not arrive in sufficient time for the voter to return the voted ballot and meet the state deadline, these voters may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state write-in absentee ballot usually provides a "full" slate of offices to be voted upon including Federal, state, and local offices. On the other hand, the FWAB generally allows voting for Federal offices. There are presently **thirteen** states that have expanded the use of the FWAB beyond Federal law. The revised FWAB was designed to accommodate its use beyond the general election and Federal offices only.

Sample Language

If the voter is a U.S. citizen residing outside the United States or a member of the United States Uniformed Services, merchant marine, or family member, and a qualified elector, he or she may request, not earlier than 180 days before an election, a state write-in absentee ballot. The voter must submit with the request a statement that provides that due to military or other contingencies that preclude normal mail delivery, the elector cannot vote an absentee ballot during the normal absentee voting period. The ballot will be available 90 to 180 days before the election.

Expand Use of Federal Write-In Absentee Ballot

Currently the Federal Write-In Absentee Ballot (FWAB) may be used only in general elections for Federal offices only. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership. By **expanding its use to include special, primary and runoff elections for Federal offices**, citizens would not be disenfranchised because regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During past primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Thirteen** states have legislatively expanded the use of the FWAB for other than Federal offices beyond the Federal law.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB voter declaration as **a request for registration simultaneously with the submission of the FWAB** would further simplify the process, improve on transit time and help ensure enfranchisement. It should be noted that the information requested on the voter declaration is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB be accepted simultaneously as a registration form and ballot by the state for general election and Federal offices if:

- (1) the information submitted complies with the state's registration requirements;
- (2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted;
- (3) the request is received by the appropriate state election official not less than 30 days before the election, or by the registration deadline established by the state, whichever is later.

The adoption of this initiative would save Michigan money and alleviate administrative responsibilities on the part of the local election officer.

Sample Language

- Expanded use of the FWAB:

If the voter is residing outside the United States or is a member of the United States Uniformed Services, merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local, state and Federal offices.

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

If the voter is residing outside the United States, or is a member of the United States Uniformed Services, merchant marine, or a family member, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) voter declaration as a request for registration simultaneously with the submission of the FWAB if:

- (1) the information submitted complies with the registration requirements of the state;*
- (2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and*
- (3) the request is received by the appropriate state election official not less than 30 days before the election or by the registration deadline established by the state, whichever is later.*